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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/751,160	12/28/2000	Anthony B. Eoga	PA00-1010-Y	8687

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EXAMINER
ANTHONY, JOSEPH DAVID

ART UNIT	PAPER NUMBER
1714	6

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/751,160	Applicant(s)
	Examiner	Group Art Unit 1714

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

☒ Responsive to communication(s) filed on 12/30/02 As Amendment B.

☒ This action is FINAL.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

☐ Claim(s) 1-14, 15-26 is/are pending in the application.

Of the above claim(s) 15-26 is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-14 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).

☐ All ☐ Some* ☐ None of the:

☐ Certified copies of the priority documents have been received.

☐ Certified copies of the priority documents have been received in Application No. _____.

☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____.

Attachment(s)

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Reference(s) Cited, PTO-892

☐ Notice of Informal Patent Application, PTO-152

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Other _____

Office Action Summary

FINAL REJECTION

Claim Rejections - 35 USC § 102 & 103

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless --
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-4, 6, 8, 10-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Sramek U.S. Patent Number 4,861,583.

Sramek teaches aqueous hot curling hair treatment compositions that comprise polyethylene oxide polymers that have a molecular weight between 20,000 to about 250,000. The compositions can be washed out of the hair at any time. Optional adjuvents are surfactants,

wetting agents, dyes, perfumes etc., see column 3, lines 30-61. Applicant's claims are deemed to be anticipated over the examples, see especially examples 1 and 15.

4. Claims 5, 7, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sramek U.S. Patent Number 4,861,583.

Sramek has been described above. Sramek differs from applicant's claimed invention in that there is no direct teaching (i.e. by way of an example) to composition that actually contain an anionic surfactant, a coloring agent or where the polyethylene oxide has a density of about 0.5 grams/ml.

It would have been obvious to one having ordinary skill in the art to use the disclosure of Sramek as motivation to make aqueous compositions that further comprises anionic surfactant and coloring agents. This is obvious because both anionic surfactant and coloring agents come within the broad disclosure of the reference. Furthermore, such components are notoriously well known in the art to be used in such compositions. Finally, applicant's claimed polyethylene oxide density of about 0.5 grams/ml is deemed to be met by using polyethylene oxide polymers that have a molecular weight between 20,000 to about 250,000 as disclosed by Sramek, or is deemed to be met by the polyethylene oxide polymer used in comparative example 15.

5. Claims 2-3, 5, and 9-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Murayama U.S. Patent Number 5,401,495.

Murayama teaches teeth whitener compositions. Applicant's claims are deemed to be anticipated over Example 4.

6. Claims 2-3, 5, and 9-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sintov et al. Patent Number 5,425,953.

Sintov et al. discloses aqueous polymer compositions for tooth bleaching and other dental uses. The composition can comprise from about 5% to 15% by weight of hydroxypropyl cellulose, see the abstract, examples and claim 10.

Sintov et al. differs from applicant's claimed invention in a number of ways such as: 1) there is no direct teaching (i.e. by way of an example) to an aqueous composition that actually comprises hydroxypropyl cellulose within applicant's claimed concentration range., and 2) the use of additional agents such as a coloring agent, an anionic surfactant, or a fragrance are not directly taught (i.e. by way of an example).

It would have also been obvious to one having ordinary skill in the art to use the disclosure of Sintov et al as motivation to actually make thickened aqueous dental compositions that contain a concentration of hydroxypropyl cellulose that reads on applicant's claimed amount since such concentrations are directly disclosed by the patent, see claim 10. It would have also been obvious to one having ordinary skill in the art to use the disclosure of Sintov et al as

motivation to actually make thickened aqueous dental compositions that contain an anionic surfactant, a coloring agent or a fragrance since such are deemed to come with the broad disclosure of the patent and are also so well known in the art to be used in such compositions.

Response to Arguments

7. Applicant's arguments filed 12/30/02 with Amendment B have been fully considered but are not persuasive to put the application in condition for allowance for the reasons given above. Additional examiner's comments are found next. Applicant is reminded that the pending claims are drawn to a composition of matter not to a method of using the composition of matter. As such, applicant's newly added claim limitation of "wherein the composition is capable of being removed from the surface at about room temperature" can be met by the applied prior-art if the prior art discloses compositions that would inherently have this property. It is thus not necessary for any of the applied prior-art references themselves to explicitly disclose such a limitation. It is held that each of the above applied prior-art references teach compositions would inherently meet applicant's said claimed limitation. As way of an example, Sramek teaches hair curling composition can be washed out of the hair with water. Such washing can occur using water a room temperature.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Examiner Information

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Joseph D. Anthony whose telephone number is (703) 308-0446. This examiner can normally be reached on Monday through Thursday from 7:35 a.m. to 6:00 p.m. in the eastern time zone. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Vasu Jagannathan, can be reached on (703) 306-2777. The group **(non-after final)** FAX machine number is (703) 872-9310. The group **(after final)** FAX machine number is (703)

872-9311. Unofficial correspondence transmitted by FAX must be marked "DRAFT". All other papers received by FAX will be treated as Official communications and cannot be immediately handled by the Examiner. Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is (703) 308-0651. The receptionist is located on the 8th floor of Crystal Plaza 3 (e.g. CP-3) and will be the welcome point for all visitors to the building.

Joseph D. Anthony

Joseph D. Anthony
Primary Patent Examiner
Art Unit 1714

3/25/03